

EXHIBIT X

From: Michael Melkersen <mike_melkersen@yahoo.com>
Sent: Thursday, February 18, 2021 1:32 PM
To: Freudenberg, Stephanie L.; Han, Suhana S.
Cc: Michael Melkersen; Dean Kevin R.; Quirk, Michael; Hank Young; Littleton, Judson; Brebner, Adam R.; Rose, Elizabeth A.; Deppermann, Lee; Bagley, Terrence M.; Abrams, Kenneth W.; Lisa Ranaldo; Emily Brown; Lee Heath; Michael Sherbow; Victoria Blatterman
Subject: Re: [EXTERNAL] Re: Garcia, et al. v. Volkswagen Group of America, Inc., et al., Case No. 1:19-cv-331-LO-MSN - Hit Reports

Hi Stephanie/Suhana:

Thank you for your response to our offer. Without waiver of our right to later seek additional search strings to be run across the relevant document set, we agree to your counterproposal on search string 15_1 and 24. We continue to disagree, however, to the elimination of search strings 17 and 29, so we will ask the Court to resolve those. We also disagree with your client's proposed "w/40" connector in search string 11_5, but I am willing to consider some modification of that connector (e.g. w/100), contingent upon the updated results of a hit report on that string. If your client is willing to consider that compromise, please forward to me the hits on that string, as modified, as soon as possible. If we are able to reach agreement, then we will remove search string 11_5 as one of the issues that we intend to present to the Court in our motion, which I anticipate filing later today.

I also would still like to hear from you all regarding my questions in my e-mail below on the progress of the document production. There are many important documents still missing from the production set. For example, we do not see that any documents have been produced at all responsive to search string 22, even though we have been in agreement on that search string for months, and your hit report indicates that there should be at least 122 unique documents that hit on that string. Similarly, I do not see where the documents referred to in our Second Amended Complaint in paragraphs 99-100 have been produced to date (we sent you our copy), nor have I seen that the e-mail from Michael Horn regarding the pre-series vehicles was produced as part of your productions (you all previously e-mailed me a copy, but asked that it be used solely for determination of whether Horn should be a custodian). I also have not seen the updated audit reports that are referred to by VWGOA in its filings with NHTSA in connection with the 20V-561 recall. As you may be aware, this recall includes several of the Class vehicles as currently defined (and which actually appear on your Exhibit A list of vehicles you provided in response to our interrogatories). The report to NHTSA indicates that a related and updated audit to those previously done that relate to the Class vehicles was performed by VWGOA from February to June 2020, and that a report was generated on June 22, 2020, to the Product Safety Committee of VWAG. I do not have any of these audit materials, the audit report, or the written communications between VWGOA and VWAG regarding any of these issues (or the prior audits), and to the best of my knowledge, I still do not have meeting minutes of the meetings conducted by the Product Safety Committee of VWAG pertaining to these recalls or its pre-production investigation.

I ask that you advise me as soon as possible when I can expect to receive these specific documents that I mentioned, and that you let me know when you are able the answer to my specific questions on the progress of your client's production to date as set forth in my e-mail below.

Thank you.

Mike

On Wednesday, February 17, 2021, 10:45:07 PM EST, Freudenberg, Stephanie L. <freudenbergs@sullcrom.com> wrote:

Mike,

We reviewed your email of February 10, 2021. We appreciate your willingness to compromise, and as we previously indicated, VWGoA is also willing to compromise further in hopes of avoiding burdening the Court with a dispute about search terms.

In particular, in the interest of compromise—and without waiving the arguments made in Suhana's December 19, 2020 letter—VWGoA agrees to: (1) add search strings 14_1, 14_2, 15_2, 16, 18, 19, 23_2, and 28; and (2) modify search strings 27 and 33 in the manner you proposed in your February 10 email. In addition, we note that the difference in hit count you flagged for search string 26 was because your version was "to/from/cc" and VWGoA's version was "to/from." VWGoA will nonetheless agree to run search string 26 as you propose. It is our understanding that we are now in agreement for all search strings except for 11_5, 15_1, 17, 24, and 29. Please let us know if your understanding differs.

In the further interest of compromise, and again without waiving the arguments made in Suhana's December 19, 2020 letter, VWGoA agrees to run your proposed search strings 15_1 and 24 with the reasonable modifications reflected in VWGoA's attached hit reports (the 2/17 proposals). Regarding search string 11_5, VWGoA does not agree to use an "AND" connector, but is willing to increase the proximity connector from "w/20" to "w/40." Please let us know if we are now in agreement.

VWGoA does not agree to run search strings 17 and 29 for the reasons set forth in Suhana's December 19, 2020 letter.

I attach the following hit reports: (1) Plaintiffs' 2/10 proposals (with changes against VWGoA's 12/19 proposals in red text), run across custodial emails; (2) Plaintiffs' 2/10 proposals (with changes against VWGoA's 12/19 proposals in red text), run across the Rational documents; (3) VWGoA's 2/17 proposals (with changes against Plaintiffs' 2/10 proposals in red text), run across custodial emails; and (4) VWGoA's 2/17 proposals (with changes against Plaintiffs' 2/10 proposals in red text), run across the Rational documents.

Regards,

Stephanie

Stephanie L. Freudenberg

Sullivan & Cromwell LLP

From: Michael Melkersen <mike_melkersen@yahoo.com>

Sent: Tuesday, February 16, 2021 11:19 PM

To: Freudenberg, Stephanie L. <freudenbergs@sullcrom.com>

Cc: Michael Melkersen <mike@mlawpc.com>; Dean Kevin R. <kdean@motleyrice.com>; Quirk, Michael <mquirk@motleyrice.com>; Hank Young <hyoung@motleyrice.com>; Han, Suhana S. <HanS@sullcrom.com>; Littleton, Judson <littletonj@sullcrom.com>; Brebner, Adam R. <brebnera@sullcrom.com>; Rose, Elizabeth A. <Rosee@sullcrom.com>; Deppermann, Lee <DEPPERMANNL@sullcrom.com>; Bagley, Terrence M. <tbagley@mcguirewoods.com>; Abrams, Kenneth W. <kabrams@mcguirewoods.com>; Lisa Ranaldo <lrinaldo@motleyrice.com>; Emily Brown <ebrown@motleyrice.com>; Lee Heath <lheath@motleyrice.com>; Michael Sherbow <msherbow@motleyrice.com>; Victoria Blatterman <vblatterman@motleyrice.com>

Subject: Re: [EXTERNAL] Re: Garcia, et al. v. Volkswagen Group of America, Inc., et al., Case No. 1:19-cv-331-LO-MSN - Hit Reports

Great. Thank you.

On Tuesday, February 16, 2021, 10:40:58 PM EST, Freudenberg, Stephanie L. <freudenbergs@sullcrom.com> wrote:

Mike,

We will get back to you on this tomorrow.

Regards,

Stephanie

Stephanie L. Freudenberg

Sullivan & Cromwell LLP

From: Michael Melkersen <mike_melkersen@yahoo.com>

Date: Tuesday, Feb 16, 2021, 10:28 PM

To: Freudenberg, Stephanie L. <freudenbergs@sullcrom.com>

Cc: Michael Melkersen <mike@mlawpc.com>; Dean Kevin R. <kdean@motleyrice.com>; Quirk, Michael <mquirk@motleyrice.com>; Hank Young <hyoung@motleyrice.com>; Han, Suhana S. <HanS@sullcrom.com>; Littleton, Judson <littletonj@sullcrom.com>; Brebner, Adam R. <brebnera@sullcrom.com>; Rose, Elizabeth A. <Rosee@sullcrom.com>; Deppermann, Lee <DEPPERMANNL@sullcrom.com>; Bagley, Terrence M.

<tbagley@mcguirewoods.com>, Abrams, Kenneth W. <kabrams@mcguirewoods.com>, Lisa Rinaldo <lrinaldo@motleyrice.com>, Emily Brown <ebrown@motleyrice.com>, Lee Heath <lheath@motleyrice.com>, Michael Sherbow <msherbow@motleyrice.com>, Victoria Blatterman <vblatterman@motleyrice.com>

Subject: Re: [EXTERNAL] Re: Garcia, et al. v. Volkswagen Group of America, Inc., et al., Case No. 1:19-cv-331-LO-MSN - Hit Reports

Hi Stephanie,

I'm just following up on this insofar as you indicated in your e-mail below your expectation of a response with hit reports by the early part of this week. We are finalizing our motion to compel, which we intend to file Thursday of this week, so if your client will agree to what I proposed in my e-mail of 2/10/21, I need to know by tomorrow, or if your client does not agree, I would at least like to have the hit reports so that we can accurately identify for the Court our areas of disagreement and the volume of documents that we are talking about that relate to the disagreement. Please advise ASAP.

Thanks.

Mike

On Friday, February 12, 2021, 07:03:32 PM EST, Freudenberg, Stephanie L. <freudenbergs@sullcrom.com> wrote:

Mike,

We are considering your comments and counterproposals, and we believe there is room for compromise. However, we are still working on getting approval from the client and generating the hit reports. We expect to be able to respond early next week with the requested hit reports and a proposed compromise that we hope will resolve our disputes without burdening the Court.

Regards,

Stephanie

Stephanie L. Freudenberg

Sullivan & Cromwell LLP

From: Michael Melkersen <mike_melkersen@yahoo.com>
Sent: Wednesday, February 10, 2021 5:34 AM
To: Freudenbergs, Stephanie L. <freudenbergs@sullcrom.com>
Cc: Michael Melkersen <mike@mlawpc.com>; Dean Kevin R. <kdean@motleyrice.com>; Quirk, Michael <mquirk@motleyrice.com>; Hank Young <hyoung@motleyrice.com>; Han, Suhana S. <HanS@sullcrom.com>; Littleton, Judson <littletonj@sullcrom.com>; Brebner, Adam R. <brebnera@sullcrom.com>; Rose, Elizabeth A. <Rosee@sullcrom.com>; Deppermann, Lee <DEPPERMANNL@sullcrom.com>; Bagley, Terrence M. <tbagley@mcguirewoods.com>; Abrams, Kenneth W. <kabrams@mcguirewoods.com>; Lisa Rinaldo <lrinaldo@motleyrice.com>; Emily Brown <ebrown@motleyrice.com>; Lee Heath <lheath@motleyrice.com>; Michael Sherbow <msherbow@motleyrice.com>; Victoria Blatterman <vblatterman@motleyrice.com>
Subject: [EXTERNAL] Re: Garcia, et al. v. Volkswagen Group of America, Inc., et al., Case No. 1:19-cv-331-LO-MSN - Hit Reports

Stephanie/Suhana:

Thank you for sending over these hit reports. They are helpful. I have just a few questions, and then some comments/proposed compromises that I hope will help close the gap on our respective positions. First, here are my questions:

1. Search String#26: It appears that the #26 search string is identical between our proposal and VWGOA's proposal, and yet it appears that our proposal on this string results in 485 hits but VWGOA's proposal on this string results in only 440 hits. Please let me understand why this hit count on string#26 is different even though our proposals appear identical - what am I missing?
2. Progress of Production: of the unique hits identified by Deloitte for VWGOA's counterproposals of December 19, 2020, and for each search string 1-35 set forth therein, can you please provide us with a work-in-progress count to show: (a) how many documents reflected in the count shown in the unique hit column have been produced to us to date; (b) how many documents reflected in the count shown in the unique hit column has review been completed; (d) how many documents reflected in the count shown in the unique hit column, for which review is completed, are being withheld for privilege (and whether all those documents are reflected in the privilege log produced to date); (e) how many documents reflected in the count shown in the unique hit column, for which review is completed, are being withheld or otherwise will not be produced for some reason other than privilege; (f) how many documents reflected in the count shown in the unique hit column exist for which review has not yet been completed; and (g) your estimated time frame to complete review of the remaining documents identified in (f) should VWGOA's counterproposals on the search strings stand and no further custodians are added. Please let me know the same information for the documents being searched in the Rational database so that I can determine how close your client is to completing the production of those documents as well.

As for my comments, I note that it appears that we agree with VWGOA on the following search strings: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11_1, 11_4, 11_8, 12, 13, 20, 21, 22, 26, 30, 31, 32, 34, 35. In addition, after further reflection, I am willing to agree to VWGOA's December 19, 2020 counterproposals as written on the following additional search strings: 11_2, 11_3, 11_6, 11_7.

I remain unwilling to modify our proposed search strings, for the reasons I have previously explained in detail, to the following search strings: 11_5, 16, 17, 23, 24, 27, 29. With regard to search string #27, it appears that other than changing our proposed limiting connector from w/50 to w/20, VWGOA's counterproposal on this one appears to simply remove the German words while agreeing to include in the search string the same English words. I do not believe that is proper because Chi-Han Chen, a central figure in this dispute, spoke and wrote fluent German and would often write his e-mails, or portions thereof, in German. Consequently, without including the German words we propose, we believe that many relevant documents will be excluded from this search. Because I do not believe that we have previously discussed this precise issue on this particular search string, please let me know if you all are willing to keep the German words as we proposed in string#27. If so, please have Deloitte run a hit count using those German words in the string we proposed, but using your proposed w/20 connector to allow me to compare those hits to the 1,081 unique hits generated from our proposed string#27 so that we can understand how the change to the connector will impact the total number of hits, and I will consider compromising on the connector.

In addition, after further reflection, I AM willing to compromise even further than I have already agreed to do with respect to the following proposed search strings: for search string#14, divide it into two separate strings 14_1 ("Federal Safety Standards" or FSS or "Federal Motor Vehicle Safety Standards" or FMVSS) w/30 ("re-exported" or destroyed or donated)), and 14_2 ("Federal Safety Standards" or FSS or "Federal Motor Vehicle Safety Standards" or FMVSS) AND ("591.5" or "591.7")); divide 15 into two separate strings 15_1 (("0-series" or "0series" or "0 series" or "zero series" or "zero-series" or "pre-series" or preseries or "pre series" or preproduction or "pre production" or "pre-production" or "early production" or prototype) w/30 ("re-exported" or destroyed or donated)) and 15_2 (("0-series" or "0series" or "0 series" or "zero series" or "zero-series" or "pre-series" or preseries or "pre series" or preproduction or "pre production" or "pre-production" or "early production" or prototype) AND ("591.5" or "591.7")); for search string#18, I'm willing to replace each of the AND operators with a w/20 proximity operator; for search string#19, I'm willing to replace each of the AND operators with a w/20 proximity operator; on search string#28 ((S99 or S77 or SL2 or SOT or S98 or SL3 or SJ0 or SF9) w/20 (noncompliance or "non-compliance" or "out of compliance" or noncompliant or "not compliant" or "do not comply" or "does not comply" or illegal or improper or "cannot be certified" or "saleable with limitations" or "not saleable")); and on search string#33, I'm willing to replace the AND operator with the w/50 operator.

Please let me know whether you will agree any of these proposed compromises on the search strings to allow us to narrow our issues of disagreement that we will be submitting to the Court for resolution. To be clear, the compromises I am proposing on the search-strings as set forth herein should not be construed to impact or resolve our position on the appropriate VWGOA document custodians. For any of the search string compromises I have proposed herein, to the extent that you are unwilling to accept my proposed compromise on any given string, I ask that you have Deloitte provide us with an updated hit list using the modified version of each search string set forth herein that I have proposed as a compromise so that all sides can fully appreciate the differences in our respective positions. I ask that you get back to me with this information by end of business this coming Friday, February 12, 2021, insofar as we are currently drafting our motion to compel and want to ensure that we include the most streamlined version of that document to the Court for efficiency purposes and to demonstrate the extent of all sides' good-faith efforts to resolve these matters without burdening the Court.

If you have any questions or concerns, please let me know.

Kind regards,

Mike

On Tuesday, February 9, 2021, 12:26:11 PM EST, Freudenberg, Stephanie L. <freudenbergs@sullcrom.com> wrote:

Mike,

Please see attached.

Regards,

Stephanie

Stephanie L. Freudenberg

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****This is an external message from: mike_melkersen@yahoo.com ****